?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 10.10.2018

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

+Crl.O.P.(MD).No.1808 of 2015

#N.Neelajanagadhas ... Petitioner
Vs.

$1.David
2.Murugan
3.J.K.Metha @ Jeyanthrakumar Metha
4.Kumaresan
5.Hemavathi ..Respondents 1 to 5

6.J.Reka Devisathya
7.M.Roselet Mary
8.V.Kannan
9.V.Prema
10.Nallaiyan
11.Valan Arul Seelan
Writer, R.T.O. Office, Nagercoil.
12.Motor Vehicle Inspector,
R.T.O. Office, Mardhandam,
Kanyakumari District.

13.Motor Vehicle Inspector Grade~I,
Poonthamalli, Chennai. ..Respondents 6 to 13

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the order passed by the learned Judicial Magistrate, Eranial in C.M.P.No.2995 of 2009 in C.C.No.199 of 2007, dated 20.10.2014 and set aside the same.

!For Petitioner : Mr.K.P.Narayanakumar

^For R12 & R13 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. side)
For R1, R3 to R6 : Mr.R.J.Karthick

:ORDER

This petition has been filed to quash the order passed by the learned Judicial Magistrate, Eranial, in C.M.P.No.2995 of 2009 in C.C.No.199 of 2007, dated 20.10.2014, thereby, dismissing the petition in respect of Respondent Nos.2 and 8 alone.

2.The learned counsel appearing for the petitioner would submit that he had filed a private complaint in C.C.No.199 of 2007. Thereafter, pending the same, he filed an application in C.M.P.No.2995 of 2009 to add the respondents 6 to 13 herein, as accused in C.C.No.199 of 2007. The learned Judicial Magistrate directed to issue notice to the respondents 2 and 8. Thereafter, the petitioner took steps to serve notice to the respondents 2 to 8. It was recorded by an order dated 23.05.2014. Thereafter, the said Petition was adjourned to 30.09.2014. On 30.09.2014, the learned Judicial Magistrate was on leave. The seventh respondent was present on that day. Respondents 2, 3 to 6, and 8 were absent and hence the matter was adjourned to 20.10.2014. On that day, the petitioner was absent. The learned Judicial Magistrate without considering the steps taken by the petitioner, simply dismissed the petition on the ground that the petitioner did not take any steps to issue notice to the Respondent Nos.2 and 8. Therefore, the learned Judicial Magistrate erred in dismissing the petition against Respondents 2 and 8.

3.The learned counsel appearing for the respondents 1, 3, 4, 5 and 6 would submit that the petitioner did not take any steps to serve notice and the learned Judicial Magistrate rightly dismissed C.M.P.No.2995 of 2009.

4.Heard the learned counsel on either side.

5.From the records, it is seen that on 23.05.2014, the petitioner took steps to issue notice to the respondents which was clearly recorded by the learned Judicial Magistrate. But on 20.10.2014, the learned Magistrate dismissed the petition on the ground that the petitioner did not take any steps to issue notice to the respondents 2 and 8. Therefore, the learned Judicial Magistrate dismissed the petition as against Respondents 2 and 8. Further the learned counsel appearing for the respondents 1, 3, 4, 5 and 6 would submit that they do not konw whether the application in C.M.P.No.2995 of 2009 is pending or not.

6.Considering the above facts and circumstances, the impugned order in C.M.P.No.2995 of 2009 in C.C.No.199 of 2007 dated 20.10.2014 is set aside. However, the learned Judicial Magistrate is directed to proceed further in C.M.P.(MD).No..2995 of 2009 in C.C.No.199 of 2007, if it is pending.

7.With the above observations, this Criminal Original Petition stands allowed.

To

1.The Motor Vehicle Inspector,
R.T.O. Office, Mardhandam,
Kanyakumari District.

2.The Motor Vehicle Inspector Grade~I,
Poonthamalli, Chennai.

3.The learned Judicial Magistrate, Eranial.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.